

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION AT DETROIT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Civil No. 09-13946  
Honorable Patrick J. Duggan  
Magistrate R. Steven Whalen

TWENTY-THREE THOUSAND DOLLARS  
(\$23,000.00) IN UNITED STATES CURRENCY,

Defendant *in Rem*.

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**STIPULATED CONSENT JUDGMENT AND FINAL ORDER OF FORFEITURE**

NOW COME Plaintiff, United States of America, BARBARA L. McQUADE, United States Attorney for the Eastern District of Michigan, by and through PHILIP A. ROSS, Assistant United States Attorney; Claimants KEVIN KELLY, by and through his counsel, SANFORD A. SCHULMAN, ESQ., and hereby submit this Stipulated Consent Judgment and Final Order of Forfeiture.

WHEREAS, on or about October 6, 2009, a Complaint for Forfeiture was filed by the United States alleging that the defendant *in rem* was subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6);

WHEREAS, Claimant Kevin Kelly filed his answer to the complaint on or about October 12, 2009 and his verified claim on or about October 20, 2009;

WHEREAS, no other verified claims of interest have been filed by any party with the United States District Court in this action, and the time for filing such claims has expired;

WHEREAS, the United States of America and Claimant Kevin Kelly are aware of their respective rights and wish to resolve this matter without further litigation and expense;

NOW THEREFORE, the parties hereby stipulate and agree as follows:

1. This is an *in rem* civil forfeiture action brought pursuant to 21 U.S.C. § 881(a)(6).
2. This Court has jurisdiction to hear this action pursuant to 28 U.S.C. §§ 1345 and 1355.
3. Venue is proper before this Court, pursuant to 28 U.S.C. § 1391(b)(2) and 1395(b), because a substantial portion of the events or omissions giving rise to the Government's claims occurred in the Eastern District of Michigan and because the defendant *in rem* was seized in the Eastern District of Michigan.
4. The Court has jurisdiction over the subject matter and the parties.
5. The allegations of the Complaint for Forfeiture are well taken; the United States and its agents had reasonable cause for the seizure of the defendant *in rem* as provided in 28 U.S.C. § 2465 and the Government's position in this action is substantially justified as provided in 28 U.S.C. § 2412(d)(1)(B).
6. The parties herein wish to resolve this matter without additional utilization of judicial resources and without incurring further litigation expenses. As such, the parties agree that Nine Thousand Three Hundred Dollars (\$9,300.00) of the Defendant *in Rem* Twenty Three Thousand Dollars (\$23,000.00) in United States Currency seized on or about May 13, 2009 shall **NOT BE FORFEITED**, but shall be **RETURNED** to Claimant Kevin

Kelly and his attorney, Sanford A. Schulman, Esq, via ACH electronic fund transfer into the client trust account of Sanford A. Schulman, Esq., as follows:

Following the entry of this Stipulated Consent Judgment and Final Order of Forfeiture and receipt by the U.S. Attorney's Office of the claimant's social security number and the Automated Clearing House ("ACH") information for electronic deposit of the funds into Sanford A. Schulman's IOLTA account, the United States Marshals Service (USMS) for the Eastern District of Michigan or his delegate shall disburse the funds through the Electronic Payment System ("EPS") to the United States Department of Treasury for electronic transfer.

Funds will only be disbursed after the USMS has received claimant Kevin Kelly's social security number and Sanford A. Schulman's ACH information.

7. The parties agree that the remaining portion of Defendant *in Rem* Twenty Three Thousand Dollars (\$23,000.00) in United States Currency, that is, the sum of Thirteen Thousand Seven Hundred Dollars (\$13,700.00), plus any interest accrued on the defendant currency since the date of seizure, shall be **FORFEITED TO THE UNITED STATES** for disposition in accordance with law. Further, any right, title or interest of Kevin Kelly and that of his successors and assigns, and any right, title and ownership interest of all other persons in the remaining Thirteen Thousand Seven Hundred Dollars (\$13,700.00) of the defendant currency, plus any interest accrued on the defendant currency since the date of seizure thereon, is hereby and forever **EXTINGUISHED**.

8. Kevin Kelly hereby withdraws his claim to the Thirteen Thousand Seven Hundred Dollars (\$13,700.00), plus any interest accrued on the defendant currency since the date of seizure thereon, of the defendant currency. Clear title to said Thirteen Thousand Seven Hundred Dollars (\$13,700.00) plus any interest accrued on the defendant currency since the date of seizure thereon shall hereby be **VESTED** in the United States of America, and the United States Marshal, or his delegate, is **AUTHORIZED** to dispose of such asset according to law.
9. Claimant Kevin Kelly hereby knowingly and voluntarily waive any and all rights to reimbursement by the United States of attorney fees and/or litigation costs in connection with this civil forfeiture action, pursuant to 28 U.S.C. § 2465(b)(1)(A) or any other statute. Claimant Kevin Kelly further agrees that forfeiture of the defendant currency Thirteen Thousand Seven Hundred Dollars (\$13,700.00), plus any interest that has accrued on any of the seized currency, is reasonable and does not constitute an excessive punishment within the meaning of the Eighth Amendment of the United States Constitution.
10. The parties to this Stipulation have discussed this settlement with their respective counsel, if any, and each are aware of their rights in this matter. The parties agree that each party shall bear its own costs and attorney fees.
11. Claimant Kevin Kelly agrees to release, remise and discharge Plaintiff, the United States of America, and any of its agencies involved in this matter, including but not limited to the United States Drug Enforcement Administration (“DEA”), the United States Marshals

Service, and the United States Department of Justice, their agents and employees, any state and local law enforcement officers and their employees, agents, officers and employees, past and present, from all claims or causes of action which Claimant Kevin Kelly and his agents, officers, employees, assignees and/or successors in interest have, may have had or may have on account of the events or circumstances giving rise to the above-captioned action.

12. This Stipulated Consent Judgment and Final Order of Forfeiture resolves this matter as to in its entirety.

**WHEREFORE**, the parties stipulate to entry of this Stipulated Consent Judgment and Final Order of Forfeiture.

Agreed as to form and substance:

BARBARA L. McQUADE  
United States Attorney

s/Philip A. Ross  
PHILIP A. ROSS  
Assistant United States Attorney  
211 W. Fort Street, Suite 2001  
Detroit, Michigan 48226-3211  
(313) 226-9790  
[philip.ross@usdoj.gov](mailto:philip.ross@usdoj.gov)  
(VA Bar No. 70269)

Dated: March 8, 2010

s/with consent of Sanford A. Schulman (see below)  
SANFORD A. SCHULMAN  
Schulman & Associates, P.C.  
500 Griswold Street  
Detroit, Michigan 48226  
(313) 963-4740  
[saschulman@comcast.net](mailto:saschulman@comcast.net)  
(P43230)

Dated: February 23, 2010

s/with consent of Kevin Kelly (see below)  
KEVIN KELLY, Claimant

Dated: February 23, 2010

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**IT IS SO ORDERED.**

S/Patrick J. Duggan  
Patrick J. Duggan  
United States District Judge

Dated: March 8, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 8, 2010, by electronic and/or ordinary mail.

S/Marilyn Orem  
Case Manager

Stipulated Consent Judgment and Final Order of Forfeiture, Civil Case No. 09-13946

Service, and the United States Department of Justice, their agents and employees, any state and local law enforcement officers and their employees, agents, officers and employees, past and present, from all claims or causes of action which Claimant Kevin Kelly and his agents, officers, employees, assignees and/or successors in interest have, may have had or may have on account of the events or circumstances giving rise to the above-captioned action.

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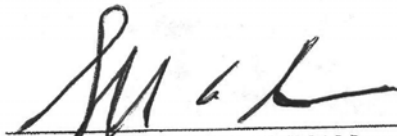
Agreed as to form and substance:

BARBARA L. McQUADE  
United States Attorney



PHILIP A. ROSS  
Assistant United States Attorney  
211 W. Fort Street, Suite 2001  
Detroit, Michigan 48226-3211  
(313) 226-9790  
[philip.ross@usdoj.gov](mailto:philip.ross@usdoj.gov)  
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SANFORD A. SCHULMAN  
Schulman & Associates, P.C.  
500 Griswold Street  
Detroit, Michigan 48226  
(313) 963-4740  
[saschulman@comcast.net](mailto:saschulman@comcast.net)  
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